

LAW OFFICES OF
VENJURIS, P.C.
1938 EAST OSBORN ROAD
PHOENIX, ARIZONA 85016
TELEPHONE (602) 631-9100
FACSIMILE (602) 631 9796
E-MAIL DOCKETING@VENJURIS.COM

Joseph R. Meaney (AZ Bar. No. 017371)
John C. Mascari (AZ Bar. No. 023345)

Attorneys for Plaintiff Iron Warrior Jewelry LLC

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

IRON WARRIOR JEWELRY LLC,
Plaintiff,
vs.
ATHLETES FOR CHRIST, L.P. dba
SHIELDS OF STRENGTH
Defendants

Case No.:

COMPLAINT

(JURY TRIAL REQUESTED)

Plaintiff Iron Warrior Jewelry LLC (“Iron Warrior” or “Plaintiff”) seeks a Declaratory Judgment that it is not infringing any rights, patent or otherwise, owned by Defendant Athletes for Christ, L.P. (“Defendant”). In support of this action, Plaintiff alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff Iron Warrior Jewelry LLC is an Arizona limited liability company with its principal place of business in Phoenix, Arizona.

2. Defendant Athletes for Christ, L.P. dba Shields of Strength (“Athletes for Christ” or “Defendant) is a Texas limited partnership having its principal place of business in Beaumont, Texas. 1

1 3. Personal jurisdiction over Defendants is proper in this District based on
2 contacts with this state, and based on the litigation threats and enforcement actions
3 described below.

4 4. This Complaint for Declaratory Judgment under 28 U.S.C. §§ 2201 and
5 2202, is properly filed in respect to an actual controversy of which this Court has
6 jurisdiction under the Patent Laws of the United States (35 US.C. § 1 et. seq.) and 28
7 U.S.C. § 1338.

8 5. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

9
10 **SUBJECT MATTER OF CONTROVERSY AND ACTS COMPLAINED OF**

11 6. Plaintiff incorporates by reference all allegations set forth in paragraphs
12 1 through 5 as though fully set forth herein.

13 7. Plaintiff sells jewelry in the shape of weightlifting equipment including
14 kettlebells, dumbbells, weight plates, and other similar designs engraved with
15 inspirational phrases such as “Earn your body.”

16 8. On June 30, 2014, Defendant sent a letter to Plaintiff asking that
17 Plaintiff discontinue production and sale of its jewelry.

18 9. Defendant’s June 30 letter asserted that Plaintiff’s goods infringed on
19 Defendant’s pending design patents. Defendant did not offer any number, name, or
20 other identifying information by which Plaintiff could find and examine the pending
21 design patents.

22 10. Defendant’s June 30 letter further asserted that Plaintiff’s goods
23 infringed on Defendant’s trademark application No. 86/097,783 comprising a circular
24 design in the shape of a weight plate.

25 11. On July 15, 2014, Plaintiff requested copies of Defendant’s design
26 patents in order to evaluate the possibility of infringement.

27 12. Plaintiff’s June 15 communication further requested an explanation of
28 anomalies in its trademark file history.

1 13. As of July 27, 2014, Plaintiff had removed from its website's store page
2 all accused plate necklaces bearing the "X" design on one face.

3 14. On August 5, 2014, Defendant's design patent for a dumbbell necklace
4 issued under registration number D710,241. Prior to August 5, 2014 Defendant's
5 design claim was secret, unknown to Plaintiff and otherwise not available for public
6 review.

7 15. As of August 12, 2014, Plaintiff had removed from its website's store
8 page all accused dumbbell necklaces.

9 16. On August 13, 2014, Defendant first responded to Plaintiff's July 15th
10 request for information about Defendants alleged designs.

11 17. The August 13 letter was the first communication from Defendant that
12 affirmatively identified the dumbbell design.

13 18. The August 13 letter further asserted that Plaintiff was infringing on a
14 pending kettlebell necklace design patent, but did not identify the pending application
15 by name, number, or any other means. The letter also did not enclose a copy of the
16 pending design.

17 19. As of August 26, 2014, Plaintiff removed from its website's store page
18 all accused kettlebell necklaces.

19 20. On August 26, 2014, Plaintiff sent a letter to Defendant again requesting
20 information about Defendant's trademark and patents.

21 21. On October 14, 2014, Defendant's design patent for a kettlebell
22 necklace issued under registration number D715,177.

23 22. On February 11, 2015, Defendant sent a letter to Plaintiff once again
24 asserting trademark and patent infringement for the stated trademark and patents.
25 Defendant further asserted infringement of a registered copyright with the registration
26 No. VA0001938108.

27 23. Upon information and belief, Athletes for Christ's partner Kenneth
28 Vaughan has personally contacted online advertisers for plaintiff's jewelry on at least

1 one occasion with the purpose of persuading the advertisers to stop advertising
2 Plaintiff's products.

3 24. Defendant's trademark appears facially invalid for failure to
4 demonstrate acquired distinctiveness.

5 25. Plaintiff creates its own jewelry designs and does not market any
6 designs from other sources.

7 26. Plaintiff's jewelry designs are not infringing on any of Defendant's
8 design patents.

9 27. Plaintiff's jewelry designs are not infringing on any of Defendant's
10 trademarks.

11 28. Plaintiff's jewelry designs are not infringing on any of Defendant's
12 copyrights.

13 29. Defendants' threats and actions have placed Plaintiff in reasonable
14 apprehension of being sued by Defendants, and have created an actual controversy
15 within the scope of 28 U.S.C. § 2201.

16 30. Upon information and belief, Plaintiff is not currently in violation of
17 any rights owned by Defendant and is not otherwise liable to Defendant for any
18 actions arising out of the sale of its goods or the use of its trademark.

19 31. Unless Defendant is permanently enjoined from doing so, Defendant
20 will continue to assert its perceived rights against Plaintiff as well as Plaintiff's
21 customers and advertisers.

22 32. Unless Defendant is enjoined from doing so, Plaintiff will continue to
23 be greatly and irreparably injured and has no adequate remedy at law.

24 33. Defendants' charges of copyright infringement, patent infringement, and
25 trademark infringement constitute a grave and wrongful interference with the business
26 of Plaintiff in this District.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For a judgment and declaration that Iron Warrior does not infringe any rights owned by Defendant;
2. For a decree enjoining and restraining Defendant from all further charges of infringement and violations of rights, including:
 - a. threatening Iron Warrior's existing or prospective customers, suppliers, dealers or any users of Iron Warrior's goods with statements or representations that they are performing acts or engaged in activity that violates rights owned by Defendant; and/or
 - b. initiating and/or maintaining infringement litigation, or threatening litigation, against Iron Warrior's existing or prospective customers, suppliers, dealers or any users of Iron Warrior's goods that asserts or charges infringement or other violation of rights owned by Defendants;
3. For damages in the amount proven at trial;
4. For Plaintiff's attorneys' fees;
5. For Plaintiff's costs of suit incurred herein; and
6. For such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

Respectfully submitted this 20th day of February, 2015

Venjuris, P.C.

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**Joseph R. Meaney SBN 017371
John C. Mascari SBN 023345
1938 East Osborn Road
Phoenix, Arizona 85016
Tel: 602-631-9100
Fax: 602-631-9796
E-Mail docketing@venjuris.com
Attorneys for Plaintiff Iron
Warrior Jewelry LLC**